

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIZABETH HARDING WEINSTEIN,

Plaintiff,

ORDER

- against -

No. 21-CV-1996 (CS)

VILLAGE OF BRIARCLIFF MANOR, *et al.*,

Defendants.
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Seibel, J.

WHEREAS Plaintiff Elizabeth Harding Weinstein's submissions in this matter have raised the issue of her competency by, among other things, challenging a commitment order allegedly issued by Village Justice Howard T. Code on March 9, 2021, (*see* Doc. 5), and her alleged involuntary commitment at St. Vincent's Hospital Westchester from March 9, 2021 to April 2, 2021, (*see id.*; Doc. 6; Doc. 10 ¶¶ 33-38, 50); and

WHEREAS the Court finds it appropriate given the circumstances to conduct an inquiry into Plaintiff's competency and whether it would be appropriate to appoint a guardian *ad litem* pursuant to Federal Rule of Civil Procedure 17(c), *see Lewis v. Newburgh Hous. Auth.*, 692 F. App'x 673, 674-75 (2d Cir. 2017) (summary order), *as amended* (July 6, 2017), or take other appropriate measures; and

WHEREAS Plaintiff's appeals from the Court's previous orders seeking information regarding competency have been dismissed by the Second Circuit, *see* Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1099 (2d Cir. July 8, 2021), ECF No. 58; Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1127 (2d Cir. July 8, 2021), ECF No. 43 Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1127 (2d Cir. July 14, 2021), ECF No. 49; and

WHEREAS the Court finds that Plaintiff's psychotherapy records from Elizabeth Bussain, LCSW are needed to aid in the Court's required determination of Plaintiff's competency, and therefore "the interests of justice significantly outweigh the need for confidentiality," N.Y. Mental Hyg. Law § 33.13(c)(1); and

WHEREAS a health care provider may disclose protected health information in the course of a judicial proceeding in response to a court order, *see* 45 C.F.R. 164.512(e)(1)(i); and

WHEREAS to the extent that the Court seeks these documents for *in camera* review, their confidentiality shall be maintained,

IT IS HEREBY ORDERED that Elizabeth Bussain shall, no later than July 30, 2021, submit to the Court for *in camera* review any and all mental health records relating to Plaintiff Elizabeth Harding Weinstein for the period March 9, 2021 to the present.

The records shall be delivered directly to my chambers via mail, fax, or personal delivery at the Hon. Charles L. Brieant Jr. Federal Building and U.S. Courthouse, 300 Quarropas Street, White Plains, New York 10601.

SO ORDERED.

Dated: July 20, 2021
White Plains, New York



CATHY SEIBEL, U.S.D.J.